dark and the walls were blanketed. He was allowed no communication with persons other than the police authorities. After several days of this confinement during hot summer weather, he confessed to an officer, who testified that he neither threatened or held out hope of reward to the prisoner. Held, that the confession was inadmissible, not being voluntary. *Ammons* v. *State* (Miss.), 32 South. 9.

Per Calhoun, J. :

"The confession was not competent to be received as evidence. 6 Am. & Eng. Enc. Law, p. 531, note 3; Id. p. 550, note 7; *Hamilton* v. *State*, 77 Miss. 675, 27 South, 606; *Simon* v. *State*, 37 Miss. 288. Defendant, unless demented, understood that the statement wanted was confession, and that this only meant release from this 'black hole of Calcutta.' Such proceedings as this record discloses cannot be too strongly denounced. They violate every principle of law, reason, humanity, and personal right. They restore the barbarity of ancient and medieval methods. They obstruct, instead of advance, the proper ascertainment of truth. It is far from the duty of an officer to extort confession by punishment. On the contrary, he should warn his prisoner that every statement he may choose to make may be used against him on his trial."

HOMICIDE—LIMITS OF CROSS-EXAMINATION—PRESENCE OF PRISONER.—It is the right and duty of the court to expedite business by curtailing the cross-examination when it runs into mere repetition of questions already asked. Where the cross-examination of a physician covered 232 folios, it was not error for the court to refuse to allow further questions on the same subject. *People* v. *Rader* (Cal.), 68 Pac. 707. Citing *People* v. *Durrant*, 116 Cal. 179.

Where the case had been set for trial on September 2, the defendant having been previously arraigned and having pleaded not guilty, the record being silent as to the presence or absence of the defendant or his counsel at the time the case was so set, the presumption is in favor of the regularity of the proceedings and of the fact that he or they were present. Even where September 2 was a legal holiday, and the court had the case set for trial September 3, the transcript reciting that the defendant was in jail and not in court, a conviction will not be set aside on that ground, the defendant not objecting when the case was called for trial, and it not appearing that he was prejudiced in the least by the resetting. The court cites, however, in support of its ruling the civil code of California, providing that whenever any act is to be performed upon a particular day, which day falls upon a holiday, it may be performed upon the next business day with the same effect. *People* v. *Rader*, *supra*.

The subject of what are proper inferences from a record in a criminal case was considered in *Gilligan's Case*, 99 Va. 816, with the same general result.

GUARANTY—ACCEPTANCE—NOTICE.—An instrument which does not recite any consideration but purports to guarantee the payment of a bill for goods which a third person may buy, where such guaranty was not executed at the request of the guarantee, nor on the guarantee's agreement to accept it, is not binding on the guarantor where there was no notice to or knowledge by guaran-

tor of acceptance. *Pearsell Mfg. Co.* v. *Jeffreys* (Ct. App. Kansas City, Mo.), 67 S. W. 706. Citing *Machine Co.* v. *Richards*, 115 U. S. 524.

In the latter case, Mr. Justice Gray thus sums up the law: "A contract of guaranty, like any other contract, can only be made by the mutual assent of the parties. If the guaranty is signed by the guarantor at the request of the other party, or if the latter's agreement to accept is contemporaneous with the guaranty, or if the receipt from him of a valuable consideration, however small, is acknowledged in the guaranty, the mutual assent is proved, and the delivery of the guaranty to him or for his use completes the contract. But if the guaranty is signed by the guarantor *without any previous request* of the other party, *and in his absence, for no consideration* moving between them, except future advances to be made to the principal debtor, the guaranty is in legal effect an offer or proposal on the part of the guarantor, needing an acceptance by the other party to complete the contract." Cf. *Davis* v. *Wells*, 104 U. S. 159. In *Nelson Mfg. Co.* v. *Shreve* (Ct. App. Mo.), the converse of the ruling in *Pearsell Mfg. Co.* v. *Jeffreys*, *supra*, is affirmed, namely, that when a request has been made, no notice of acceptance is necessary.

TRADE-MARKS—FRAUD.—A court of equity will not lend its aid to a scheme to defraud the public, and will not interpose to protect a claim to a trade mark or label where either contains a misrepresentation. Where a label on a patent medicine contains an assurance that the medicine would cure the worst cases of smallpox, and it is proved that there is no medicine that will cure smallpox, *Held*, That a decree restraining the defendant from using the label or trade-mark was erroneous. *Houchens* v. *Houchens* (Md.), 51 Atl. 822. Citing *Siegert* v. *Abbott*, 61 Md, 276, 48 Am. Rep. 101; *Kenny* v. *Gillett*, 70 Md. 574.

So, where complainant used, not on its manufactured article, but on its advertising matter, the word "patented," after its patent had expired, it was guilty of such a fraud as to close the doors of a court of equity against it—and this, although it was otherwise clearly entitled to an order rest ining an infringement. *Preservaline Manufacturing Co.* v. *Heller Chemical Co.* (U. S. C. C., N. D. Ill.), 34 Chicago Legal News, 329. Citing *Cheavin* v. *Walker*, 5 Ch. Div. 850; *Leather Cloth Co.* v. *American Leather Cloth Co.*, 11 H. L. Cases, 541.

CLERKS OF COURTS—MONEY LOST THROUGH FAILURE OF BANK—LIABILITY OF SECURITIES.—Where a sum of money was paid to a clerk of a court in condemnation proceedings and he accepted it in his official capacity and deposited it in his name as clerk, without obtaining order of court designating the bank as a depository, and the bank subsequently became insolvent, *held*, that he and the sureties on his official bond are liable for the loss. In respect to his liability, there is no distinction between public and private funds. *N. P. Ry. Co.* v. *Owens* (Minn), 90 N. W. 371.

The opinion of the court recognizes that at common law the liabilities of public officers for funds deposited with them was substantially that of a bailee for hire—that they were not liable for the loss, if it occurred without their fault. It cites, however, sundry Minnesota cases to show that such is not the law of that State, all being predicated on *U. S.* v. *Prescott*, 3 How. 578, where it was held that a receiver of public moneys and his sureties are not discharged